

## **REMARKS**

Reconsideration and withdrawal of the examiner's objections and rejections under 35 U.S.C. §§ 102(b) and 103(a) is respectfully requested in view of the following remarks. The applicant would like to thank the examiner for her time and kind cooperation in this matter.

### ***35 USC § 102(b)***

The examiner has rejected claims 1, 3, 5-6, 9 and 11-13 under 35 U.S.C. 103(b) [sic 102(b)] as being anticipated by Farrell, et al., (US 6,063,390), issued May 16, 2000, as evidenced by ChemBrief (Optigel SH Synthetic Silicate, June 2003, Vol. 3, Iss. 2). Applicants respectfully traverse this rejection.

The examiner asserts that Farrell, et al., teach an effervescent cleansing composition which comprises a mixture of an acid material such as citric acid and an alkaline material such as sodium bicarbonate (abstract). Water contact causes the combination to effervesce (abstract). The alkaline material is a substance which can generate a gas such as carbon dioxide when contacted with water and the acidic material (column 2, lines 19-23). In one embodiment, Farrell, et al., teach a composition comprising potassium bicarbonate, lactic acid (satisfying claim 1a, 1b, 1d and 1f), sodium sulfosuccinate present at 11.6% by weight (satisfying claim 1e) and Optigel SH (sodium magnesium silicate) (satisfying claim 1c and e) (Table IV).

In response, applicants respectfully assert that a proper prima facie case is not set forth because Farrell, et al., and ChemBrief fail to disclose or suggest at least the following independent elements:

- 1 (b). a continuous phase present in the composition composed of a substantially anhydrous carrier; and
- 1 (c). an organophilic particle stabilizer contained in the dispersed phase;

Farrell discloses a simple powder blend of reactive components in a substantially anhydrous condition which is different from the claimed continuous phase containing a dispersed phase. The skilled person would understand that a continuous phase is a liquid part of a disperse system that also contains a dispersed phase. The dispersed phase could be either a liquid or a solid (see McGraw Hill Dictionary definition attached). This is also exemplified in the examples in the instant specification (see tables 1-9 regarding the elected invention). Applicants respectfully submit that this definition should be considered by the examiner as the broadest reasonable interpretation "In light of the specification as it would be interpreted by one of ordinary skill in the art". In re Am. Acad. of Sci. Tech. Ctr., 367 F.3d 1359, 1364 (Fed. Cir. 2004). See also MPEP 2111. Since neither reference contains all the elements of the independent claim by itself, there is no prima facie case under § 102(b).

### **35 USC § 103(a)**

The examiner has rejected claims 1, 3-6, 9, 11-14 and 16 under 35 U.S.C. 103(a) as being unpatentable over Farrell, et al., (US 6,063,390), issued May 16, 2000, as evidenced by ChemBrief (Optigel SH Synthetic Silicate, June 2003, Vol. 3, Iss. 2). Applicants respectfully traverse this rejection.

Farrell, et al., teaches that the blend must be an anhydrous dry powder ostensibly to avoid any premature reaction prior to the user applying the later wetted wiping article to the skin (col. 1, lines 40-41). Aside from the fact that a proper prima facie case is not set forth, Farrell, et al., teaches away from reducing the degree of intimate contact of the dry reactive materials (cf. first and second components) by suspending them in the anhydrous carrier required in instant claim 1(a) and (b) because Farrell teaches that the desired result of the rapid effervescence created by the intimate blend being contacted with water is the production of "copious" lather. In other words, the skilled person would not have been motivated to reduce the intimate contact of the dry powder in Farrell, et al., by suspending such powder in an inert medium (i.e., a "substantially anhydrous carrier" claimed in 1(b)).

Lastly, applicants respectfully submit that prior art stabilizers such as ChemBrief SH Synthetic Silicate (sodium magnesium silicate) fail to anticipate claim limitation 1(c) because such compound fails to meet the limitation of "organophilic particle" as would be evident to the person of ordinary skill in the art ("POSITA"). Silicates are known by the POSITA to be attracted to or solvated by polar materials/solvents such as water in contrast to organophilic particles which are attracted to or solvated by nonpolar materials/solvents (see [medilexicon.com](http://medilexicon.com) dictionary definitions attached of organophilic and organophilicity). Nonlimiting examples of inventive organophilic particles are described in the instant specification on page 13, line 33 to page 14, line 5 and include e.g., organophobically modified clays.

The examiner further asserts that ChemBrief teaches sodium magnesium silicate is dispersible (not solvated) in water, and that such dispersibility results due to the small size of platelets (as opposed to any chemical modification creating an organophilic particle) and that sodium magnesium silicate forms lamellar surfactant phases upon contact with water at ambient temperature just as defined in instant claim 12.

In response, applicants respectfully submit that neither the small size of platelets nor the ability to form lamellar phase are relevant to organophilicity. Furthermore, applicants have been unable to find any reference to organophilicity in the ChemBrief reference which is required by the instant claims. The examiner also provides no reason why a POSITA would consider the silicates described in the ChemBrief article to have organophilic character. Therefore, applicants respectfully reiterate that the ChemBrief article fails to remedy the deficiencies of Farrell, et al., with respect to setting forth a proper prima facie case under §§ 102(b) and 103(a) for claims 1, 3-6, 9 and 11-16.

The examiner has rejected claim 15 under 35 U.S.C. 103(a) as being unpatentable over Farrell, et al., (US 6,063,390), issued May 16, 2000, as evidenced by ChemBrief (Optigel SH Synthetic Silicate, June 2003, Vol. 3, Iss. 2) as applied to claims 1, 3-6, 9, 11-14 and 16 above, and further in view of Sun, et al. (US 2004/0062735) published April 1, 2004. Applicants respectfully traverse this rejection.

The examiner asserts that Sun, et al., teach a dry article comprising an insoluble substrate, at least one oxidizing agent and at least one reducing agent, wherein the suitable oxidizing agents include alkaline metal salts and the reducing agents include sulfides and sulfites (column 4, line 40 – column 5, line 22).

Sun relates to a composition or article containing at least one oxidizing agent and at least one reducing agent, wherein at least one of the at least one reducing agent is a depilatory agent, the equivalent ratio of the at least one oxidizing agent to the at least one reducing agent is less than 1:1, and the article is exothermic when wet with water, and the use thereof to remove hair from the skin (see abstract).

Applicants respectfully submit that Sun, et al., fails to remedy the deficiencies of Farrell, et al., and ChemBrief with regards to claim 15 which depends from claim 1.

continuous function of the deviation. (kon'tinyu-  
vowz)

continuous countercurrent leaching (chem eng) Process  
leaching by the use of continuous equipment in which the  
solid and liquid are both moved mechanically, and by the  
series of leach tanks and the countercurrent flow of solvent  
the tanks in reverse order to the flow of solid. (kon'ti-  
nu-  
vowz)

continuous distillation (maths) A transformation of a  
function which magnifies, shrinks, rotates, or translates portions of  
the function in any manner without tearing. (kon'tinyu-  
vowz)

continuous distillation (chem eng) Separation by boiling  
liquid mixture with different component boiling points; feed  
introduced continuously, with continuous removal of over-  
head vapors and high-boiling bottoms liquids. (kon'tinyu-  
vowz)

continuous distribution (stat) Distribution of a continuous  
function, which is a class of pairs such that the second member  
of each pair is a value, and the first member of the pair is a  
density for that value. (kon'tinyu-  
vowz)

continuous dryer (eng) An apparatus in which drying is  
achieved by passing wet material through without interrup-  
tion. (kon'tinyu-  
vowz)

continuous-duty rating (elec) The rating that defines the  
maximum load which can be carried for an indefinite time without exceed-  
ing a specified temperature rise. (kon'tinyu-  
vowz)

continuous dyeing (text) The application of color-produc-  
ing dyes to textiles by impregnating the cloth with dye and  
passing it through a series of developing, washing, and  
finishing zones to a final take-up roll. (kon'tinyu-  
vowz)

continuous equilibrium vaporization (chem eng) Vaporization  
which occurs at a constant temperature and pressure. (kon'tinyu-  
vowz)

continuous extension (maths) A continuous function which  
is not a continuous function defined on a smaller  
interval. (kon'tinyu-  
vowz)

continuous filament (text) A long, continuous strand of a  
textured fiber as distinguished from all natural fibers (en-  
tirely silk), which are of short staple or length. (kon'tinyu-  
vowz)

continuous film scanner (elects) A television film scanner  
in which the motion picture film moves continuously while  
being scanned by a flying-spot kinescope. (kon'tinyu-  
vowz)

continuous flow (eng) 1. The flow of a material at a normal rate  
without interruption, for application of adjustment correction  
after causes. 2. In feed delivery, a succession of silos,  
each being filled consecutively at the interval designated  
therefor. (kon'tinyu-  
vowz)

continuous-flow conveyor (mach eng) A totally enclosed,  
semi-hell conveyor pulled transversely through a mass of  
powdered or small-lump material fed from an over-  
head. (kon'tinyu-  
vowz)

continuous flowmeter (mach eng) A record of surveys  
which changes in the flow pattern of production zones  
in relation to changes in conditions at the surface, in the  
formation, or after stimulation treatment. (kon'tinyu-  
vowz)

continuous footing (civ eng) A footing that supports a wall.  
(kon'tinyu-  
vowz)

continuous form (compt eng) 1. In character recognition,  
a method of source information that exists in reel form, such as  
MIL or cash-register receipts. 2. Preprinted forms that  
are each page, with sections of one page joined to the  
next by a perforated attachment, so that they can be  
pulled apart. (kon'tinyu-  
vowz)

continuous function (maths) A function which is continuous  
over its domain. Also known as continuous trans-  
formation. (kon'tinyu-  
vowz)

continuous furnace (mach eng) A type of reheating furnace  
in which the charge introduced at one end moves continuously  
through the furnace and is discharged at the other end.  
(kon'tinyu-  
vowz)

continuous gas lift (petro eng) Oil production in which  
the gas pressure (natural or injected) is sufficient to pro-

vide a continuous upward flow of oil through the well tubing.  
(kon'tinyu-  
vowz)

continuous geometry (maths) A generalization of projective  
geometry. (kon'tinyu-  
vowz)

continuous image (maths) The image of a set under a con-  
tinuous function. (kon'tinyu-  
vowz)

continuous industry (pet eng) An industry in which raw  
material is subjected to successive operations, turning it into a  
finished product. (kon'tinyu-  
vowz)

continuous line (text) 1. A long line through which were  
travels on a moving device, such as a conveyor. 2. A line  
through which the line travels progressively. (kon'tinyu-  
vowz)

continuous leader (text) A leader. (kon'tinyu-  
vowz)

continuous loading (elec) Loading in which the added in-  
ductance is distributed uniformly along a line by wrapping mag-  
netic material around each conductor. (kon'tinyu-  
vowz)

continuously adjustable transformer (elec) A transformer  
in which the secondary winding is continuously adjustable.  
(kon'tinyu-  
vowz)

continuous mill (text) A rolling mill in which metal is suc-  
cessively rolled thinner as it passes through a series of synchro-  
nized rolls in tandem. (kon'tinyu-  
vowz)

continuous miner (mach eng) Machine designed to remove  
coal or other soft materials from the face and to load it into cars  
or conveyors continuously, without the use of cutting machines,  
drills, or explosives. (kon'tinyu-  
vowz)

continuous mining (min eng) A type of mining in which  
the continuous miner cuts or digs coal or other soft materials  
from the face and loads it in a continuous operation. (kon'tinyu-  
vowz)

continuous mixer (mach eng) A mixer in which materials  
are introduced, mixed, and discharged in a continuous flow.  
(kon'tinyu-  
vowz)

continuous operation (text) A process that operates on a  
continuous flow (materials or time) basis, in contrast to batch,  
intermittent, or sequenced operations. (kon'tinyu-  
vowz)

continuous operator (maths) A linear transformation of  
continuous space which is continuous with respect to their topol-  
ogies. (kon'tinyu-  
vowz)

continuous permeability zone (petro eng) Regional zone pre-  
dominantly underlain by permeability from above that is not  
interrupted by pockets of unfrozen ground. (kon'tinyu-  
vowz)

continuous phase (chem) The liquid in a disperse system  
in which solids are suspended or droplets of another liquid are  
dispersed. Also known as dispersion medium, external phase.  
(kon'tinyu-  
vowz)

continuous population (stat) A population in which a ran-  
dom variable is measuring a continuous characteristic.  
(kon'tinyu-  
vowz)

continuous precipitation (text) Precipitation that is charac-  
teristic of certain alloys, from a supersaturated solid solution  
involving a gradual change of the lattice parameter of the matrix  
with aging time. (kon'tinyu-  
vowz)

continuous production (pet eng) Manufacture of products,  
such as chemicals or paper, involving a sequence of processes  
performed by a series of machines receiving the materials  
through a closed channel of flow. (kon'tinyu-  
vowz)

continuous profiling (elec) A method of abscising in seis-  
mic exploration in which uniformly spaced seismicometer stations  
along a line are shot from holes placed along the same line so  
that each hole records seismicity in the same direction. (kon'tinyu-  
vowz)

continuous radiation (electromag) Electromagnetic radia-  
tion that includes all the wavelengths in some interval. Also  
known as radio emission. (kon'tinyu-  
vowz)

continuous radio beacon (nav) A single marine radio bea-  
con operating on a frequency without interruption, used specif-  
ically with automatic direction finders. (kon'tinyu-  
vowz)

continuous rating (text) A rating that defines the maximum  
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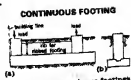
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ing a specified temperature rise. (kon'tinyu-  
vowz)



Two types of continuous footings:  
(a) Cast-in-place wall footing. (b) Wall footing.

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# McGraw-Hill Dictionary of Scientific and Technical Terms Fifth Edition

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organophilicity

Type: Term

Pronunciation: 6r'g8-n6-6-6-6-6-6

Definitions:

1. Attraction of nonpolar substances (organic molecules) to each other.

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RETHII

Possible side effects are too low, injector involving lifting and augmentation could be monitoring is reason

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ADHD »

Autism »

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Stem Cells »

## organophilic

Type: Term

Pronunciation: ɔr'gə-nō-fil'ik

Definitions:

1. Pertaining to organophilicity.

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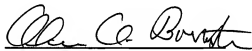
7/20/2010



### CONCLUSION

In light of the above remarks, applicants submit that all claims now pending in the present application are in condition for allowance. Reconsideration and allowance of the application is respectfully requested. The examiner is invited to contact the undersigned if there are any questions concerning the case.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Alan A. Bornstein", written over a horizontal line.

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Attorney for Applicant(s)

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